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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,189	10/06/2003	Hiroshi Tsunehara	NS-US035105	2342

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EXAMINER
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PEZZLO, BENJAMIN A

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/678,189

Applicant(s)

TSUNEHARA, HIROSHI

Examiner

Benjamin A Pezzlo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 and 21-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 19, and 20 is/are rejected.
- 7) ☒ Claim(s) 9-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7 April 2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Species I is acknowledged. The traversal is on the ground(s) that the identified species are only "aspects" or "modes" of the same invention. This is not found persuasive because the identified species are executed independently of each other and are patentably distinct. Indeed, at page 16 of the response Applicant points out that the braking mode selecting section is configured to selectively set *one* of an electric power maintenance priority mode and a braking response priority mode as the selected braking mode. The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

2. Claim 2 is objected to because of the following informalities:

line 4, "the" should appear between "of" and "braking".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by

Kidston et al. (US 5615933).

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Kidston et al. disclose a vehicle braking control system comprising: a braking mode selecting section configured to set one of a plurality of braking modes as a selected braking mode (see col. 8 lines 5-10) , with each of the braking modes having a different braking control priority for setting a target regenerative braking force, a target hydraulic braking force and a target electric braking force (see col. 6 lines 46-51); a required braking force determining section (see col. 6 line 29) configured to determine a required braking force for an entire vehicle, and a target braking force setting section configured to set the target regenerative braking force (col. 6 lines 15-20), the target hydraulic braking force, and the target electric braking force based on the braking control priority of the selected braking mode to produce the required braking force for the entire vehicle.

Re claim 2, see col. 8 lines 5-10, note that if a high  $\mu$  surface is detected then the priority mode is electric power maintenance, i.e. max regenerative braking.

Re claims 3 and 4, see col. 6 lines 15-30 and lines 45-51.

Re claim 5, see col. 6 line 48-51, note that the target hydraulic versus electric braking force is apportioned to maintain "vehicle stability".

Re claim 6, see col. 6 lines 15-30 and lines 45-51.

Re claim 7, see Fig. 9.

Re claim 8, see col. 6 lines 48-51, note that electric brakes are the last to be added to total braking, thus maintaining electric braking power to a limited range.

Re claims 19 and 20, see above rejection re claim 1.

***Allowable Subject Matter***

4. Claims 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kade et al., Joyce, Ito et al., Manabe, Kuno et al., Ohtsu et al., Koga et al., Schneider, Isella, Bodie et al., Aoki et al., and Knechtges disclose related devices.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Benjamin A Pezzlo*  
*4/22/04*  
BAP  
April 22, 2004

Benjamin A Pezzlo  
Examiner  
Art Unit 3683